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09/777,884	02/07/2001	James A. Johanson	L7480.0213/P213	3315
32498 7590 10/11/2007 CAPITOL PATENT & TRADEMARK LAW FIRM, PLLC ATTN: JOHN CURTIN P.O. BOX 1995 VIENNA, VA 22183			EXAMINER CHANKONG, DOHM	
			ART UNIT 2152	PAPER NUMBER
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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

**MAILED**

**OCT 11 2007**

**Technology Center 2100**

Application Number: 09/777,884  
Filing Date: February 07, 2001  
Appellant(s): JOHANSON ET AL.

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John E. Curtin  
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 7/9/2007 appealing from the Office action mailed 12/5/2005.

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**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

US 6204844	Fumarolo et al	3-2001
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US 6246376	Bork et al	6-2001
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**(9) Grounds of Rejection**

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The following ground(s) of rejection are applicable to the appealed claims:

*Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1> Claims 3-5, 19, and 30-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fumarolo et al. (U.S. Patent Number 6,204,844), hereinafter referred to as Fumarolo, in view of Bork et al. (U.S. Patent Number 6,246,376), hereinafter referred to as Bork.

2> Fumarolo disclosed a method for dynamically viewing and grouping multiple communication units in a communications system. In an analogous art, Bork discloses a communications system that provides a continuous indication of distance and direction relative to two devices.

3> Concerning claims 19 and 32, Fumarolo did not explicitly state that his system's devices could communicate using Bluetooth signals. Fumarolo's system does utilize a wireless infrastructure and it could easily be adapted to operate using any type of known wireless network. Furthermore, the ability to transfer GPS coordinates between devices using Bluetooth was well known in the art at the time of the applicant's invention as evidenced by Bork. It would have been obvious to one of ordinary skill in the art at the time

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of the applicant's invention to modify the system of Fumarolo by adding the ability to transmit and detect Bluetooth signals in such a communications system as provided by Bork. Here the combination satisfies the need for a GPS device that can communicate its location with another trusted device by using Bluetooth or a cellular link. See Bork, column 3, lines 29-34. This rationale also applies to those dependent claims utilizing the same combination.

4> Some claims will be discussed together. Those claims which are essentially the same except that they set forth the claimed invention as a device are rejected under the same rationale applied to the described claim.

5> Thereby, the combination of Fumarolo and Bork discloses:

- <Claims 19 and 32>

A method for selecting nearby devices to communicate with, comprising the steps of: transmitting a first Bluetooth signal (Bork, column 4, lines 60-64 and column 5, lines 13-17); detecting a plurality of second Bluetooth signals, each containing GPS coordinates of at least one nearby device (Bork, column 4, line 64 through column 5, line 2, for the use of Bluetooth, and Fumarolo, column 5, lines 35-41 and column 13, lines 32-42); and selecting a nearby device associated with one of the detected signals to communicate with based on the received GPS coordinates (Fumarolo, column 5, line 61 through column 6, line 12 and column 13, lines 32-42).

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- <Claims 30 and 33>

The method as in claim 19 further comprising the step of: displaying the location of each nearby device associated with received GPS coordinates (Fumarolo, column 5, lines 35-41); and selecting the nearby device to communicate with based on the displayed locations (Fumarolo, column 13, lines 43-58).

- <Claims 31 and 34>

The method as in claim 30 further comprising selecting a nearby device associated with a shortest location (Fumarolo, column 16, lines 8-26 and column 17, lines 25-42).

- <Claims 3 and 35>

The method as in claim 30 further comprising displaying only those nearby devices within a certain range (Fumarolo, column 16, line 54 through column 17, line 6).

- <Claims 4 and 36>

The method as in claim 19, wherein each of said second signals includes the type of nearby device (Fumarolo, column 5, lines 41-60).

- <Claims 5 and 37>

The method as in claim 4 further comprising the step of displaying the type of nearby device associated with each received second signal (Fumarolo, column 5, lines 41-60).

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6> Since the combination of Fumarolo and Bork discloses all of the above limitations, claims 3-5, 19, and 30-37 are rejected.

(10) Response to Argument

I. APPELLANTS' ARGUMENTS SHOULD NOT BE CONSIDERED PERSUASIVE BECAUSE FUMAROLO AND BORK DISCLOSE ALL OF THE CLAIMED LIMITATIONS.

Appellants only sets forth two arguments: (1) Fumarolo and Bork do not disclose selecting a particular device to communicate with based on the received GPS coordinates. (Appeal brief, pg. 4, ¶¶3-4); (2) the combination of Fumarolo and Bork is improper. (Br. 5, ¶3). It should be noted that although Appellants assert that Fumarolo does not disclose any of the limitations of the independent claims, Appeal brief, pg. 4, ¶3 ("does not disclose features (a)-(c) set forth above"), Appellants only provide reasons for why Fumarolo allegedly does not disclose the feature of selecting a device based on received GPS coordinates.

A. Fumarolo discloses that a talkgroup consists of at least one or more communication devices.

Specifically, as to Appellant's first argument, Appellants argue that Fumarolo is directed towards selection of a "talk group" which Appellants assert are not equal to the claimed nearby devices in claims 19 and 32. (Appeal brief, pg. 4, ¶3. However, contrary to Appellant's argument, Fumarolo clearly discloses that a "terminal receives the user's selection of *at least one communication unit from the map*" (italics provided). (Col. 3, ll. 32-34). Selection of communication units can be done "individually" or "by selecting the communication units as a group." (Col. 3, ll. 36-44).

The selection of at least one communication terminals results in placing the one communication terminal into a talkgroup. Fumarolo discloses selection of a talkgroup with whom a user can communicate, where the talkgroup can consist of one or more nearby devices. (Col. 13, ll. 26-42). Appellants' arguments assume that Fumarolo's use of the terminology talk "group" implies that a user must select more than one nearby device. However, based on the discussion above, Fumarolo clearly implies that a group can consist of merely one communication terminal.

As to selection of the devices based on GPS coordinates, Appellants assert that Fumarolo discloses selection of a nearby device based on whether the communication unit can handle an incident and not based on the use of GPS information as claimed. (Br. pg. 4, ¶4). Contrary to Appellants' argument, Fumarolo does disclose the selection of a device based on received GPS coordinates.

It should first be noted that while the claim recites the selection of a device based on received GPS coordinates, it is more accurate to characterize the limitation as the selection of a device based on the device's location that is calculated from GPS coordinates. (Appellants' specification, pg. 2, ll. 14-18). It is clear from Appellants' specification that GPS coordinates are used solely as a means for calculating a nearby device's location for display on a map; in other words, Appellants' invention does not select a device based on the GPS coordinates alone but only after the GPS coordinates' have been integrated into the map to display "each device in its respective location." (Specification, pg. 2, ll. 15-17).

Based on this interpretation of Appellants' claim, Fumarolo discloses the selection of devices based on received GPS coordinates as the selection is made from a location on the

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map. For example, like in Appellant's invention, Fumarolo discloses utilizing GPS coordinates in order to display each device at their respective location. (Col. 13, ll. 32-42). A user can then select a nearby device with which to communicate based on the device's respective location. (Col. 9, ll. 60-65 : the user terminal accessing a communication resource and sending a command to the nearby selected communication units).

B. The combination of Fumarolo and Bork is proper.

Appellants next argue that one of ordinary skill in the art would not combine Fumarolo and Bork conjecturing that Bork's Bluetooth system "would most likely not have the distance or range needed to carry out the principle of operation in Fumarolo." (Br. pg. 5, ¶4). Appellants provide no reasons for this conjecture. Appellants do not point to any sections in either Fumarolo or Bork that might explain the basis of such a statement.

Fumarolo expressly discloses that GPS coordinates (communication unit locations) can be received by the user terminal from the communication units themselves. (Col. 13, ll. 32-35). Fumarolo thus discloses the ability for the devices to communicate directly with one another in order to communicate GPS coordinates. This disclosure contradicts Appellants' unsupported assertion that "distance or range" are necessary in Fumarolo's system.

Bork discloses that GPS coordinates can be transmitted between devices using the well-known BLUETOOTH communication protocol. (Fig. 1 | col. 3, ll. 29-40). It would have been obvious to one of ordinary skill in the art to use alternate methods of transferring GPS data to a communication unit such as via Bluetooth as presented by Bork. Bork's use of transmitting and detecting Bluetooth signals could be easily incorporated into Fumarolo's

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system and would have been clearly advantageous to Fumarolo's system as an alternate way to communicate to a mobile unit the location coordinates of other units.

Furthermore, Bork's use of a BLUETOOTH is a natural progression of what is taught in Fumarolo. As described in Bork, BLUETOOTH technology "advantageously offers short-range wireless communication between 'BLUETOOTH' devices without the need for a central network." (Col. 1, ll. 44-47). This is consistent with Fumarolo's desire to allow communication units to transmit their location directly. One of ordinary skill in the art would have understood that Bork's teaching could advantageously be implemented into Fumarolo to carry out his invention.

(II) Related Proceeding(s) Appendix


No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.


For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

DC  
October 5, 2007

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10/9/7